



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB2952

Introduced 2/4/2014, by Sen. Mike Jacobs

SYNOPSIS AS INTRODUCED:

770 ILCS 95/2
770 ILCS 95/4

from Ch. 114, par. 802
from Ch. 114, par. 804

Amends the Self-Service Storage Facility Act. Provides that the term "last known address" includes electronic mail addresses. Defines "verified mail" and "electronic mail". Provides that notice under the Act shall be delivered by verified mail or by electronic mail (instead of "by certified mail or by first-class mail with a certificate of mailing") to the last known address of the occupant. Provides that a notice sent by electronic mail is presumed delivered when the owner receives a receipt of delivery to the occupant's last known address. Provides that the advertising requirements of the sale or other disposition to enforce the lien may be met in any commercially reasonable manner, and that the manner of advertisement shall be deemed commercially reasonable if at least 3 independent bidders attend the sale. Provides that a sale shall be deemed to be held at the self-service storage facility where the personal property is stored if the sale is held on a publicly accessible online website.

LRB098 16773 HEP 51842 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Self-Service Storage Facility Act is amended
5 by changing Sections 2 and 4 as follows:

6 (770 ILCS 95/2) (from Ch. 114, par. 802)

7 Sec. 2. Definitions. As used in this Act, unless the
8 context clearly requires otherwise:

9 (A) "Self-service storage facility" means any real
10 property designed and used for the purpose of renting or
11 leasing individual storage space to occupants who are to have
12 access to such for the purpose of storing and removing personal
13 property. A self-service storage facility is not a warehouse
14 for purposes of Article 7 of the Uniform Commercial Code. If an
15 owner issues any warehouse receipt, bill of lading, or other
16 document of title for the personal property stored, the
17 provisions of this Act do not apply.

18 (B) "Owner" means the owner, operator, lessor, or sublessor
19 of a self-service storage facility, his agent, or any other
20 person authorized by him to manage the facility, or to receive
21 rent from an occupant under a rental agreement.

22 (C) "Occupant" means a person, his sublessee, successor, or
23 assign, entitled to the use of the storage space at a

1 self-service storage facility under a rental agreement, to the
2 exclusion of others.

3 (D) "Rental agreement" means any agreement or lease,
4 written or oral, that establishes or modifies the terms,
5 conditions, rules or any other provisions concerning the use
6 and occupancy of a self-service storage facility.

7 (E) "Personal property" means movable property not affixed
8 to land, and includes, but is not limited to goods,
9 merchandise, motor vehicles, watercraft, and household items.

10 (F) "Last known address" means that mailing address or
11 electronic mail address provided by the occupant in the latest
12 rental agreement, or the mailing address or electronic mail
13 address provided by the occupant in a subsequent written notice
14 of a change of address.

15 (G) "Late fee" means a charge assessed for an occupant's
16 failure to pay rent when due. "Late fee" does not include
17 interest on a debt, reasonable expenses incurred in the
18 collection of unpaid rent, or costs associated with the
19 enforcement of any other remedy provided by statute or
20 contract.

21 (H) "Verified mail" means any method of mailing that is
22 offered by the United States Postal Service or private delivery
23 service that provides evidence of mailing.

24 (I) "Electronic mail" means the transmission of
25 information or a communication by the use of a computer or
26 other electronic means sent to a person identified by a unique

1 address and that is received by that person.

2 (Source: P.A. 97-599, eff. 8-26-11.)

3 (770 ILCS 95/4) (from Ch. 114, par. 804)

4 Sec. 4. Enforcement of lien. An owner's lien as provided
5 for in Section 3 of this Act for a claim which has become due
6 may be satisfied as follows:

7 (A) The occupant shall be notified;

8 (B) The notice shall be delivered:

9 (1) in person; or

10 (2) by verified ~~certified~~ mail or by electronic mail
11 ~~first-class mail with a certificate of mailing~~ to the last
12 known address of the occupant;

13 (C) The notice shall include:

14 (1) An itemized statement of the owner's claim showing
15 the sum due at the time of the notice and the date when the
16 sum became due;

17 (2) The name of the facility, address, telephone
18 number, date, time, location, and manner of the lien sale,
19 and the occupant's name and unit number;

20 (3) A notice of denial of access to the personal
21 property, if such denial is permitted under the terms of
22 the rental agreement, which provides the name, street
23 address, and telephone number of the owner, or his
24 designated agent, whom the occupant may contact to respond
25 to this notice;

1 (3.5) Except as otherwise provided by a rental
2 agreement and until a lien sale, the exclusive care,
3 custody, and control of all personal property stored in the
4 leased self-service storage space remains vested in the
5 occupant. No bailment or higher level of liability is
6 created if the owner over-locks the occupant's lock,
7 thereby denying the occupant access to the storage space.
8 Rent and other charges related to the lien continue to
9 accrue during the period of time when access is denied
10 because of non-payment;

11 (4) A demand for payment within a specified time not
12 less than 14 days after delivery of the notice;

13 (5) A conspicuous statement that unless the claim is
14 paid within the time stated in the notice, the personal
15 property will be advertised for sale or other disposition,
16 and will be sold or otherwise disposed of at a specified
17 time and place.

18 (D) Any notice made pursuant to this Section shall be
19 presumed delivered when it is deposited with the United States
20 Postal Service, and properly addressed with postage prepaid or
21 sent by electronic mail and the owner receives a receipt of
22 delivery to the occupant's last known address;

23 (E) After the expiration of the time given in the notice,
24 an advertisement of the sale or other disposition shall be
25 published once a week for two consecutive weeks in a newspaper
26 of general circulation where the self-service storage facility

1 is located or in any other commercially reasonable manner. The
2 manner of advertisement shall be deemed commercially
3 reasonable if at least 3 independent bidders attend the sale.

4 The advertisement shall include:

5 (1) The name of the facility, address, telephone
6 number, date, time, location, and manner of lien sale and
7 the occupant's name and unit number.

8 (2) (Blank).

9 (3) The sale or other disposition shall take place not
10 sooner than 15 days after the first publication. If there
11 is no newspaper of general circulation where the
12 self-service storage facility is located, the
13 advertisement shall be posted at least 10 days before the
14 date of the sale or other disposition in not less than 6
15 conspicuous places in the neighborhood where the
16 self-service storage facility is located.

17 (F) Any sale or other disposition of the personal property
18 shall conform to the terms of the notification as provided for
19 in this Section;

20 (G) Any sale or other disposition of the personal property
21 shall be held at the self-service storage facility, or at the
22 nearest suitable place to where the personal property is held
23 or stored. A sale under this Section shall be deemed to be held
24 at the self-service storage facility where the personal
25 property is stored if the sale is held on a publicly accessible
26 online website;

1 (G-5) If the property upon which the lien is claimed is a
2 motor vehicle or watercraft and rent or other charges related
3 to the property remain unpaid or unsatisfied for 60 days, the
4 owner may have the property towed from the self-service storage
5 facility. If a motor vehicle or watercraft is towed, the owner
6 shall not be liable for any damage to the motor vehicle or
7 watercraft, once the tower takes possession of the property.
8 After the motor vehicle or watercraft is towed, the owner may
9 pursue other collection options against the delinquent
10 occupant for any outstanding debt. If the owner chooses to sell
11 a motor vehicle, aircraft, mobile home, moped, motorcycle,
12 snowmobile, trailer, or watercraft, the owner shall contact the
13 Secretary of State and any other governmental agency as
14 reasonably necessary to determine the name and address of the
15 title holder or lienholder of the item, and the owner shall
16 notify every identified title holder or lienholder of the time
17 and place of the proposed sale. The owner is required to notify
18 the holder of a security interest only if the security interest
19 is filed under the name of the person signing the rental
20 agreement or an occupant. An owner who fails to make the lien
21 searches required by this Section is liable only to valid
22 lienholders injured by that failure as provided in Section 3;

23 (H) Before any sale or other disposition of personal
24 property pursuant to this Section, the occupant may pay the
25 amount necessary to satisfy the lien, and the reasonable
26 expenses incurred under this Section, and thereby redeem the

1 personal property. Upon receipt of such payment, the owner
2 shall return the personal property, and thereafter the owner
3 shall have no liability to any person with respect to such
4 personal property;

5 (I) A purchaser in good faith of the personal property sold
6 to satisfy a lien, as provided for in Section 3 of this Act,
7 takes the property free of any rights of persons against whom
8 the lien was valid, despite noncompliance by the owner with the
9 requirements of this Section;

10 (J) In the event of a sale under this Section, the owner
11 may satisfy his lien from the proceeds of the sale, but shall
12 hold the balance, if any, for delivery on demand to the
13 occupant. If the occupant does not claim the balance of the
14 proceeds within one year of the date of sale, it shall become
15 the property of the owner without further recourse by the
16 occupant.

17 (K) The lien on any personal property created by this Act
18 shall be terminated as to any such personal property which is
19 sold or otherwise disposed of pursuant to this Act and any such
20 personal property which is removed from the self-service
21 storage facility.

22 (L) If 3 or more bidders who are unrelated to the owner are
23 in attendance at a sale held under this Section, the sale and
24 its proceeds are deemed to be commercially reasonable.

25 (Source: P.A. 97-599, eff. 8-26-11.)